

(c) *Use.* The term “use”, as used in the regulations in this part with reference to a highway motor vehicle, means the use of the highway motor vehicle on the public highways in the United States, that is, operation of the vehicle, by means of its own motor, on any roadway (whether a Federal highway, State highway, city street, or otherwise) in the United States which is not a private roadway. Thus, for purposes of the tax, there is no use of a highway motor vehicle while the vehicle is in “dead storage”. The term “use” does not include operation of a new highway motor vehicle on a public highway in the United States if such operation is merely for the purpose of transporting the vehicle from the point of manufacture or assembly to the consumer, whether direct or with intermediate deliveries to such points as are involved in the distribution process. For example, operation of a new vehicle for the purpose of delivering it from the factory to a branch establishment of the manufacturer, or from the factory or branch establishment to a dealer, distributor, or consumer, does not constitute use of the vehicle within the meaning of the regulations in this part; likewise, the further operation of the vehicle by a dealer or distributor for the purpose of delivering the vehicle to a consumer does not constitute use of the vehicle. Similarly, the operation of a secondhand highway motor vehicle by a dealer or distributor for the purpose of delivering the vehicle to a purchaser does not constitute use of the vehicle within the meaning of the regulations in this part. Furthermore, the term “use” does not include operation of a new or secondhand highway motor vehicle, if such operation is exclusively for the purpose of demonstration of the vehicle by a dealer in, or distributor of, new or secondhand highway motor vehicles. Operation of a highway motor vehicle on a private roadway, or other private property, does not constitute use of the vehicle within the meaning of the regulations in this part.

(d) *Customarily used.* A semitrailer or trailer is treated as *customarily used* in connection with a highway motor vehi-

cle if the vehicle is equipped to tow the semitrailer or trailer.

[T.D. 7409, 41 FR 9877, Mar. 8, 1976, as amended by T.D. 7505, 42 FR 42856, Aug. 25, 1977; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8159, 52 FR 33584, Sept. 4, 1987; T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483-1 State exemption.

Use of a highway motor vehicle by a State is exempt from the tax imposed by section 4481. For this purpose, the term *use by a State* means the operation by a State on the public highways in the United States of any highway motor vehicle, whether or not such highway motor vehicle is owned by the State.

[T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483-2 Exemption for certain transit-type buses.

(a) *In general.* Use in any taxable period, or part thereof, of any bus of the transit type by any person who is engaged in the operation of a transit system is exempt from the tax, if such person meets the 60-percent passenger fare revenue test provided for in paragraph (e) of this section, for the applicable period prescribed in paragraph (c) of this section as the test period for such person for such system for such taxable period, or part thereof.

(b) *Buses of the transit type.* The term “transit type”, when used in the regulations in this part with reference to a bus, means the type of bus which is designed for the mass transportation of persons within an urban area, as distinguished from the intercity-type bus. A transit-type bus is ordinarily distinguishable from an intercity-type bus by comparison of seats, doors, and baggage facilities. The transit-type bus usually has straight-back seats of the bench type, while the intercity-type bus generally has seats which either can be reclined or are in fact permanently fixed in a reclining position. The transit-type bus is more likely to have an accordion or folding-type door at the front of the bus, and often has a second door in the middle or at the rear for passengers to leave the bus, as opposed to the emergency-type rear door which may or may not be included in the intercity-type bus. The typical

transit-type bus does not have facilities for storing baggage whereas the typical intercity-type bus has facilities for storing baggage in a compartment underneath the floor of the bus or in overhead racks, or both. Other characteristics which may be taken into account in distinguishing a transit-type bus from an intercity-type bus include gear ratios, acceleration and maximum speed, and aisle space for standees. The transit-type bus ordinarily has a lower gear ratio to provide for quick starts and because, in general, buses of this type are operated at low speeds. The intercity-type bus ordinarily has a higher gear ratio and can be operated at much higher speeds. The transit-type bus usually has wider aisles, with overhead straps or bars to accommodate standees.

(c) *Test period.* (1) In the case of any person who is engaged in the operation of a transit system at any time in the calendar quarter immediately preceding July 1 of any taxable period, the test period for such system for such taxable period shall be such calendar quarter. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the last preceding test period for such system. If such system has no preceding test period, then the test period for such system for such taxable period shall be the calendar quarter beginning with July 1 of such taxable period.

(2) Except as otherwise provided in subparagraph (3) of this paragraph, in the case of any person who commences operation of a transit system at any time on or after July 1 of any taxable period the test period for such system for that part of such taxable period beginning with the first day on which such operation was commenced shall be the calendar quarter in which falls such first day. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the following calendar quarter.

(3) In the case of any person who commences operation of a transit system at any time in the last calendar quarter to which the tax imposed by section 4481 applies, such last calendar quarter shall be the test period for such transit system regardless of the number of days in which passenger fare revenue is derived in such calendar quarter.

(d) *Transit system.* The term “transit system”, as used in the regulations in this part, means any system for furnishing scheduled common carrier public passenger land transportation service along regular routes.

(e) *60-percent passenger fare revenue test.* For purposes of this section, a person engaged in the operation of a transit system meets the 60-percent passenger fare revenue test, for the applicable test period prescribed in this section, if:

(1) During such test period such person derived passenger fare revenue from the operation of such system, and

(2) At least 60 percent of the total of such passenger fare revenue derived by such person during such test period was attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less. In determining the total of such passenger fare revenue, revenue from sources such as charter fees, rentals of property, advertising receipts, etc., is not taken into account.

(f) *Examples.* Application of this section may be illustrated by the following examples:

Example (1). The X Transit Company is engaged in the operation of a transit system in the city of A and surrounding area throughout April, May, and June of 1984 and the taxable period beginning July 1, 1984. It derives passenger fare revenue from the operation of such system for 15 days in April and for the entire months of May and June of 1984. On July 1, 1984, the Company is using 60 buses of the transit type and 40 buses of the intercity type. Each of 20 of the transit-type buses and each of 10 of the intercity-type buses has a taxable gross weight of less than 55,000 pounds. (No tax is imposed on the use of either a transit-type bus or an intercity-type bus having a taxable gross weight of less than 55,000 pounds. See § 41.4481-1.) Use of the

10 intercity-type buses is subject to the tax for the taxable period beginning with July 1, 1984, since the exemption, if any, applies only to transit-type buses. Use of the 20 transit-type buses is not subject to the tax for such taxable period if at least 60 percent of the total passenger fare revenue derived by the X Transit Company during April, May, and June of 1984 (the test period prescribed in paragraph (c) (1) of this section) from operation of such system was from fares attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less. If the X Transit Company does not meet the 60-percent passenger fare revenue test for April, May, and June of 1984, the tax attaches for the taxable period beginning with July 1, 1984, with respect to the use of each of the 20 transit-type buses having a taxable gross weight of more than less than 55,000 pounds.

Example (2). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on July 15, 1984, and derives passenger fare revenue from operation of the system throughout the following August and September. In such case, the test period is July, August, and September of 1984, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period July 15, 1984, through June 30, 1985.

Example (3). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on April 15, 1985, and derives passenger fare revenue from operation of the system throughout the following May and June. In such case the test period is April, May, and June of 1985, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period April 15 through June of 1985, or in the taxable period beginning on July 1, 1985.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483-3 Exemption for trucks used for 5,000 or fewer miles and agricultural vehicles used for 7,500 or fewer miles on public highways.

(a) *Suspension of tax*—(1) *In general.* Liability for the tax imposed by section 4481(a) is suspended during a taxable period if it is reasonable to expect that the vehicle will be used for 5,000 or fewer miles on public highways during such taxable period and the owner fur-

nishes in the time and manner required the information required under paragraph (a)(2) of this section. See paragraph (g) of this section regarding special rules for agricultural vehicles. See § 41.4482(c)-1(c) for the meaning of “use” on the public highways.

(2) *Information to be supplied in support of suspension of tax.* The owner of a highway motor vehicle who reasonably expects that the vehicle will be used for 5,000 or fewer miles on public highways during a taxable period shall furnish on the first Form 2290 filed during the taxable period for such motor vehicle, such information as is required by the Form in order to support the suspension of tax under paragraph (a) of this section.

(b) *Cessation of suspension from tax.* If a highway motor vehicle on which the tax under section 4481(a) is suspended for a particular taxable period under paragraph (a)(1) of this section is used for more than 5,000 miles on public highways during such taxable period, the owner of the vehicle is liable for the tax for the entire taxable period in accordance with section 4481(a).

(c) *Exemption.* If at the end of any taxable period during which the tax under section 4481(a) on a highway motor vehicle was suspended under paragraph (a)(1) of this section the vehicle has not been used for more than 5,000 miles on public highways, the vehicle shall be exempt from the tax for that taxable period. The owner of the vehicle shall verify that the vehicle was used for less than 5,000 miles in such ended taxable period on the first Form 2290 filed for the next taxable period.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of 6 highway motor vehicles, each of which has a taxable gross weight in excess of 55,000 pounds. None of these 6 vehicles are agricultural vehicles. The vehicles are placed in use during July 1984. Because of the nature of his business, A reports on the first Form 2290 filed after June 30, 1984, that he reasonably expects that none of the vehicles will be used for more than 5,000 miles on public highways. Accordingly, the tax imposed by section 4481(a) is suspended for A's 6 vehicles for the taxable period July 1, 1984, through June 30, 1985.